

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

ADAM SIMMONS,

Movant,

V.

UNITED STATES OF AMERICA,

Respondent.

Cv. No. 1:23-cv-01248-STA-jay
Cr. No. 1:21-cr-10087-STA-6

**ORDER DIRECTING MOVANT TO FILE AN AMENDED MOTION
ON THE OFFICIAL FORM AND SIGN HIS § 2255 MOTION**

On November 17, 2023, Adam Simmons, Bureau of Prisoners registration number 81329-509 , an inmate at Coleman 1, Coleman, Florida, filed a pro se Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence. Pursuant to Rule 2(c) of the Rules Governing Section 2255 Proceedings for the United States District Courts, “[t]he motion must substantially follow either the form appended to these rules or a form prescribed by a local district-court rule.” This District uses the form promulgated by the Administrative Office of the United States Courts. Rule 2(b)(5) of the Section 2255 Rules also requires a movant to sign his § 2255 petition under penalty of perjury.

In this case Simmons did not file his motion on the official form and has not signed his motion under penalty of perjury. However, Simmons's failure to comply with the Section 2255 Rules is not fatal. The Advisory Committee Notes to Rule 2 advises that a movant should have

an opportunity to conform his motion to Rule 2(b)'s procedural requirements rather than have his motion dismissed.¹

Therefore, Simmons is **ORDERED** within twenty-eight (28) days of the date of entry of this order to file an amended motion on the official form for § 2255 motions. Simmons must complete each section of the official form and sign it under penalty of perjury.

Simmons must also provide the factual basis for each issue raised in his amended motion and use additional pages if needed. Simmons may, but is not required to, submit a legal memorandum with his amended motion. The legal memorandum may not exceed twenty (20) pages (excluding the case caption, signature block, and certificate of service) without prior permission from the Court.

If Simmons fails to file an amended motion on the official form and signed under penalty of perjury within the time set by the Court, the Court will strike his initial motion (ECF No. 1) and close the case without further notice. The Clerk of Court is **DIRECTED** to mail Simmons a copy of this order along with the official form and a copy of the docket sheet.

IT IS SO ORDERED.

s/ **S. THOMAS ANDERSON**
S. THOMAS ANDERSON
UNITED STATES DISTRICT JUDGE

Date: April 11, 2024

¹ § 2255 Rules, Advisory Committee Notes, 2004 amendments (noting that court should allow movants to submit corrected motions conforming to Rule 2(b)); *see also United States v. Guerrero*, 488 F.3d 1313, 1316-17 (10th Cir. 2007); *Kafo v. United States*, 467 F.3d 1063, 1069-71 (7th Cir. 2006) (allowing movant opportunity to conform to Rule 2 requirements).